

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/08/2003

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

CRL.O.P.No.20929 of 2001

and

CRL.M.P.No.7197 of 2001

R. Ravichandran .. Petitioner

-Vs-

1. State of Tamilnadu
Rep. by Secretary to Government
Home Department
Fort St. George
Chennai 600 009.

2. The District Collector
Nagapattinam

3. The District Superintendent of
Police
Nagapattinam

4. Mr.Selvaraj
Deputy Superintendent of Police
Vedaranyam
Nagapattinam District.

5. Mr.Motchaguru,
Inspector of Police
Voimedu Police Station
Nagapattinam
Nagapattinam District

6. Ravi

7. Selvam .. Respondents

This criminal original petition is filed under Sec.482 of The Code of Criminal Procedure to direct the respondents 1 to 3 to entrust the investigation of Crime No.180 of 2001 on the file of the 5th respondent herein with a police officer not below the rank of a Deputy Superintendent of Police taking into account his past experience, sense of ability and justice to perceive the implications of the case as contemplated in Rule 7 of the

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules 1995 and to proceed as per law, to direct the respondents 1 to 3 to proceed against the Deputy Superintendent of Police and the Inspector of Police, who investigated the Crime No.180/2001, on the file of the 5th respondent as per Section 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also administratively and to direct the respondents 1 and 2 to disburse to the petitioner herein the relief amount he is entitled to as per the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules 1995.

For Petitioner : Mr.P.Rathinam

For Respondents : Mr.O.Srinath
Government Advocate(Crl. Side)
for RR1 to 5

No appearance for RR6 & 7

:ORDER

This petition has been brought forth seeking a direction to the respondents 1 to 3 to entrust the investigation in Crime No.180/01 on the file of the 5th respondent to a Police Officer not below the rank of a Deputy Superintendent of Police and a direction to the respondents 1 to 3 to proceed against the Deputy Superintendent of Police and the Inspector of Police, who investigated the Crime No.180/01 on the file of the 5th respondent as per Section 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also a direction to the respondents 1 and 2 to disburse to the petitioner the relief amount he is entitled to as per the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Pursuant to a written complaint by the petitioner to Voimedu Police Station, a case came to be registered in Crime No.180 of 2001 under Ss 341, 323 I.P.C. read with Sec.3(1)(x) of SC & ST Act on 11.4.2001. Immediately after the registration of the case, the Inspector of Police, Voimedu Police Station, who registered the case, submitted the papers to the Deputy Superintendent of Police for necessary action. In turn, the Deputy Superintendent of Police shown as the 4th respondent herein, took up the investigation, examined the witnesses including the complainant and completed the investigation. He handed over the same to the Inspector for further investigation in view of the fact that it did not disclose an offence falling under the provisions of the SC & ST Act and dropped the further action with reference to the provisions under the said Act. Accordingly, the further investigation was conducted by the Investigating Officer, and a charge sheet under Ss 341 and 323 of I.P.C. was filed. The complainant, who is the petitioner herein aggrieved over the deletion of the case under the provisions of the SC & ST Act, has brought forth this petition seeking for the above said reliefs.

3. Arguing for the petitioner, the learned Counsel would submit that after receiving the complaint, a case came to be registered under Sec.3(1)(x) of the SC & ST Act, but the case should have been investigated into by a

Deputy Superintendent of Police; that neither the Inspector of Police nor any other Officials had actually recorded the statements from the petitioner/complainant and other witnesses; that in fact, none of the persons whose statements having been allegedly recorded under Sec.161 of the Code of Criminal Procedure were not even met by the Police Personnel; that a reading of the statements revealed that they have been brought on record only to demolish the entire case and the complaint as recorded in the F.I.R.; that the Police Officer has taken every care to see that the case ended in acquittal, and therefore, the narration of the occurrence has been so made in the statements to contradict the complaint in the F.I.R. in entirety; that the 5th respondent has purposefully deleted the provisions of SC & ST Act, and the same was contrary to the settled position of law; that only the Special Court constituted under the SC & ST Act was empowered to do the same taking into account the facts and circumstances of the case; that no notice was served on the petitioner with regard to the deletion of the provisions of SC & ST Act; that the charge sheet should have been laid only by the Deputy Superintendent of Police and that too in the Special Court constituted under the Act; that the entrustment of the investigation of the offence under SC & ST Act with an Officer below the rank of the Deputy Superintendent of Police, has been done without any reason whatsoever; that since the offence was committed against the petitioner namely one under Sec.3(1)(x) of the SC & ST Act, he should have been paid the relief amount as set out in the Annexure to the said Act, and hence, the Court has to invoke its inherent powers to issue directions as sought for.

4. Opposing strongly the above contentions put forth by the petitioner's side, the learned Government Advocate would submit that immediately on the complaint given by the petitioner, a case was registered by the Inspector of Police, Voimedu Police Station in Crime No.180/01 under Ss 341, 323 IPC read with Sec.3(1)(x) of SC & ST Act, and the Deputy Superintendent of Police has actually taken up the investigation, examined the witnesses and recorded their statements; that all the witnesses, including the complainant were enquired, and their statements have also been recorded; that the same was also done by the Deputy Superintendent of Police; that the Inspector had neither enquired nor recorded the statements of the witnesses including the complainant; that a perusal of Sec.161 of Cr.P.C. statements recorded from the complainant and the witnesses would clearly indicate that at the time of the occurrence, there was not even the utterance of the caste name; that in view of the same, the Deputy Superintendent of Police found that there was nothing to attract the provisions of the SC & ST Act, and hence, he handed over case for further investigation by the Inspector with the direction of deletion of the provisions under Sec.3(1)(x) of the SC & ST Act; that thereafter, a charge sheet was filed under Ss 341 and 323 of I.P.C.; that the investigation was done properly and there was no infirmity or lacuna in that, and hence, the facts and circumstances do not warrant for any re-investigation in the matter.

5. After careful consideration of the rival submissions, the Court is of the considered view that the petitioner is not entitled for all or any one of the reliefs asked for.

6. Admittedly, a complaint was given by the petitioner herein

alleging that on 8.4.2001, there was a celebration of a local temple festival at Mappillai Veeran Koil on 9.4.2001 at mid night namely at 12.00 hours, he was witnessing a dance programme organised in connection with the said festival; that there was heavy crowd watching the dance programme; that the sixth respondent was standing by the side of the complainant; that the sixth respondent suddenly got wild and pushed him down saying "being a person hailing from the Scheduled Caste why he was standing by his side and touching him bodily"; and that immediately the other accused also joined with him and attacked him. Admittedly on receipt of the complaint, the fifth respondent, Investigating Officer registered a case in Crime No.180/01 under Ss 323, 341 of I.P.C. read with Sec.3(1)(x) of the SC & ST Act. It is brought to the notice of the Court that after the registration of the complaint including the provisions under the SC & ST Act, the matter was handed over to the Deputy Superintendent of Police for investigation. According to the Deputy Superintendent of Police, Vedaranyam, Sub Division, Nagapattinam, who filed an affidavit, nowhere in the statements of the complainant and the witnesses recorded by him, the complainant or any one of the witnesses has spoken to the effect that any word referring to the caste of the complainant was uttered by any one of the accused therein. After recording of the statements, the Official concerned thought it fit that it is not a case where the respondents 6 and 7/accused could be accused of the offence under the provisions of the SC & ST Act, but there was a case for offences under Ss 341 and 323 of I.P.C., and he entrusted the further investigation to the Inspector of Police, who did accordingly and filed the charge sheet. Thus, it is not a case where the investigation was done by the Inspector of Police.

7. On registration of the case under the provisions of the Indian Penal Code as well as under the provisions of SC & ST Act, the Inspector, who registered the case, did not investigate the same, but handed over the same to the Deputy Superintendent of Police, who has proceeded with the investigation. It was the Deputy Superintendent of Police, who recorded the statement of the complainant and the witnesses also. Since neither the complainant nor one of the witnesses has spelt about any utterances as to the caste, it would not attract any of the provisions of the SC & ST Act. Hence, the Deputy Superintendent of Police has rightly handed over the case to the Inspector of Police for further investigation. The Inspector on completion of the investigation has laid the charge sheet also.

8. It is contended by the learned Counsel for the petitioner that though there were no utterances as to the caste, even then Sec.3(1)(x) of the SC & ST Act would be attracted, and hence, there should not have been a deletion of the said provision, but the investigation should have been proceeded in that line by the Deputy Superintendent of Police. The said contention cannot be countenanced in view of the provisions of Sec.3(1)(x) of the Act. Sec.3(1)(x) of the SC & ST Act reads:
"3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:-

.....

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view."
It is contended by the State that neither the complainant nor any one of the witnesses have spoken to about the utterances to the cast made by the accused.

Under such circumstances, there was a deletion of the offence under Sec.3(1)(x) of the SC & ST Act and rightly too. Thus, the Court is unable to see any lacuna or infirmity in the investigation so as to call for either re-investigation or further investigation in the case. Further, the question of direction to the respondents 1 and 2 for payment of compensation would not also arise. Hence, the Court is unable to see any merit in this petition.

9. In the result, this criminal original petition is dismissed.
Consequently, connected Crl.M.P. is also dismissed.

Index: Yes

Internet: Yes

To:

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3. The District Superintendent of
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4. The Deputy Superintendent of Police
Vedaranyam
Nagapattinam District.

5. The Inspector of Police
Voimedu Police Station
Nagapattinam
Nagapattinam District

6. The Public Prosecutor
High Court, Madras.

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